

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

June 3, 2008

7:30 p.m.

Present at the 7:30 p.m. meeting were:

Chairman: James Bowman

Commissioners: Ralph Begleiter
Angela Dressel
Mary Lou McDowell

Commissioners Absent: Peggy Brown
Rob Osborne
Kass Sheedy

Staff Present: Maureen Feeney Roser, Interim Planning Director

Chairman James Bowman called the Planning Commission meeting to order at 7:30 p.m.

1. The minutes of the May 6, 2008 Planning Commission meeting.

Mr. Bowman: Are there any corrections or additions to the minutes?

Ms. Dressel: On Page 2, first line under item #3 should read “. . . Planning Commission which reads as,” not at.

On Page 10 about half way down where Mr. Bowman says “critized,” I am not exactly sure what word should have been used.

Mr. Bowman: It should be criticized.

Ms. Dressel: On Page 11, in the second paragraph which begins “One of the things . . .,” in the last line it should read, “. . . fairly plain façade,” not plan.

Mr. Bowman: Are there any other additions or corrections to the minutes? If not, the Chairman will entertain a motion to accept the minutes as corrected.

MOTION BY BEGLEITER, SECONDED BY McDOWELL, TO ACCEPT THE MINUTES OF THE MAY 6, 2008 PLANNING COMMISSION MEETING AS CORRECTED.

VOTE: 4-0

AYE: BOWMAN, BEGLEITER, DRESSEL, McDOWELL

NAY: NONE

ABSENT: BROWN, OSBORNE, SHEEDY

MOTION PASSED UNANIMOUSLY

2. Review and consideration of the rezoning from RM (multi-family dwellings – garden apartments) to BLR (business limited residential) and minor subdivision of the .3513 acre property at the southeast corner of the intersection of Choate and New Streets to construct four townhouse style apartments.

Ms. Maureen Feeney Roser summarized her report to the Planning Commission which reads as follows:

“On April 24, 2008, the Planning and Development Department received applications for the rezoning and minor subdivision of the .3513 acre properties at the southeast corner of the intersection of Choate and New Streets. The applicants, James and Karen Lisa, are requesting a rezoning of the site from RM (garden apartments) to BLR (business-limited-residential) and minor subdivision in order to construct four townhouse style apartments. As part of this minor subdivision, the existing three parcels on the site will be combined.

Please see the attached Apex Engineering, Inc., rezoning and minor subdivision plan, building elevations and supporting letter.

The Planning and Development Department Report on the Choate Street Commons project follows:

Property Description and Related Data

1. Location:

Southeast corner of the intersection of Choate and New Streets

2. Size:

.3513 acres

3. Existing Land Use:

Two single family detached residential dwellings

4. Physical Condition of the Site:

Choate Street Commons is a developed site containing two single-family two-story dwellings fronting on Choate Street and a small shed to the rear on the east end of the property. One dwelling unit is currently vacant and the other has a current rental permit.

In terms of topography, the Choate Street Commons property is very flat with almost no perceptible slope.

Regarding soils, according to the U.S. Department of Agriculture’s Natural Resources Conservation Service the site contains Matapeake Sassafras Urban Land Complex soil. According to the National Resources Conservation Service, this is a soil at developed sites that does not have limitations indicated for the use proposed.

5. Planning and Zoning:

The Choate Street Commons proposal is for properties currently zoned RM. RM is a multi-family zone that permits the following:

- A. Garden apartments, subject to special conditions.
- B. One family, semidetached dwelling.
- C. Boarding house, rooming house, lodging house, but excluding all forms of fraternities and/or sororities, provided that: The minimum lot area for each eight, or remainder over the multiple of eight residents, shall be the same as the minimum lot area requirements for each dwelling unit in this district.
- D. Nursing home, rest home or home for the aged; with special conditions.
- E. Accessory uses and accessory buildings customarily incidental to the uses permitted in this section and located on the same lot, including a private garage, excluding semi-trailers and similar vehicles for storage of property.

- F. Cluster or neo-traditional types of developments, included uses that many not be permitted in this district, as provided in Article XXVII, Site Plan Approval.
- G. One-family detached dwelling.
- H. The taking of nontransient boarders or roomers in a one-family dwelling by a family resident on the premises, is not a use as a matter of right, but is a conditional use subject to special requirements, including the requirement for a rental permit, and provided there are not more than three boarders or roomers in any one-family dwelling.
- I. Church or other place of worship, seminary or convent, parish house, or Sunday school building, and provided, however, that no lot less than 12,500 square feet shall be used for such purposes.
- J. Public and private elementary, junior, and senior high schools.
- K. Municipal park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreation purposes.
- L. Municipal utilities, street rights of way. treatment plant.
- M Temporary building, temporary real estate or construction office.
- N. Utility transmission and distribution lines.
- O. Public transportation bus or transit stops for the loading and unloading of passengers.
- P. One-family town or rowhouse subject to the requirements of Sections 32-13(1) and 32-13(c)(1).
- Q. Student Homes, with special requirements

RM zoning also permits with a Council granted Special Use Permit the following:

- A. Conversion of a one-family dwelling into dwelling units for two or more families, if such dwelling is structurally sound but too large to be in demand for one-family use, and that conversion for the use of two or more families would not impair the character of the neighborhood, subject to special requirements.
- B. Substation, electric, and gas facilities, provided that no storage of materials and trucks is allowed. No repair facilities are allowed except within completely enclosed buildings.
- C. Physicians' and dentists' offices, subject to special requirements.
- D. If approved by the council, property in a residential zone adjacent to an area zoned "business" or "industrial" may be used for parking space as an accessory use to a business use, whether said business use be a nonconforming use in the residential zone or a business use in said adjacent area zoned "business" or "industrial."
- E. Police and fire stations, library, museum, and art gallery.
- F. Country club, regulation golf course, including customary accessory uses subject to special requirements.
- G. Professional offices in residential dwellings for the resident-owner of single-family dwellings permitted subject to special requirements.
- H. Customary Home occupations with special requirements.
- I. Public Transit Facilities.
- J. Private (nonprofit) swimming clubs.
- K. Day Care Centers with special requirements.

Please note that apartment uses in the RM district require lots of a minimum size of one acre.

The requested BLR zoning is a transitional light business/residential zone that permits the following:

- A. Churches or places of worship
- B. Schools
- C. Parks and Playgrounds
- D. Municipal utilities uses
- E. Public transportation bus or transit stops
- F. Social club, fraternal, social service, union and civic organizations
- G. Accessory uses
- H. Hospitals

- I. Apartments in conjunction with any nonresidential uses permitted in the district.
- J. Offices for professional services and administrative activities
- K. Undertakers
- L. Barber shops and beauty parlors
- M. Personal service establishments
- N. Specialty retail stores with a maximum floor area limited to 5,000 square feet
[non-food]
- O. Finance Institutions, banks, loan companies
- P. Six apartment units in any single detached or semi-detached residential building
- Q. Bed and breakfast, with special requirements

BLR zoning also permits, with a Council granted Special Use Permit, the following:

- A. Police and fire stations, library, museum and art gallery
- B. Golf courses and country clubs
- C. Electrical and gas substations
- D. Day care centers
- E. Drive-in or curb service for other than eating establishments

Please note that the BLR district permits a maximum of 16 dwelling units per gross acre and a minimum lot area of half acre.

Regarding the applicable BLR zoning area requirements, other than for minimum lot area, the Choate Street Commons meets all applicable Zoning Code area requirements. The applicants sought a variance for minimum lot area and, on May 15, 2008, the Board approved the request.

In terms of adjoining properties, the lands immediately adjacent at the south fronting on Choate Street are zoned RM, as are the properties located adjacent east of the site fronting on Chapel Street that contain rowhouse residential units. The Newark Methodist Church Cemetery is located to the north of the site across New Street. RS (single family, detached) zoned properties are located to the west across Choate Street.

Regarding comprehensive planning, the Newark Comprehensive Plan calls for, “single family residential (medium density) uses,” in the Planning Section within which the Choate Street Commons property is located. The Plan defines single family residential (medium density) as “areas designated for dwellings occupied by one family, either detached, semi-detached, or townhouses, with overall densities of four to ten dwelling units per acre.

Please note in this regard that the Choate Street Commons plan calls for 11.38 units per acre.

Also regarding comprehensive planning, the Choate Street Commons property is located within the boundaries of “Downtown Newark” part of Downtown District 4. The Plan calls this district a housing rehab district. The Plan notes that housing rehabilitation and development should be concentrated in two downtown districts of which District 4 is located in the north central portion of the downtown development framework. In this district, the Plan indicates that “efforts to encourage family owner-occupant type projects should be emphasized.”

Departmental Comments

The City’s Management, Planning and Operating Departments have reviewed the Choate Street Commons development project and have the comments provided below. If necessary, the plan should be revised as indicated prior to its review by City Council.

1. The Planning and Development Department notes that with the Board of Adjustment minimum lot size variance approved on May 15, 2008, the Choate Street Commons development plan meets all applicable Zoning Code area requirements.

2. The Planning and Development Department notes that the residential use on the site corresponds to development in the area. Moreover, as noted above, the Choate Street Commons plan corresponds, in general, to the City's land use plan for this downtown location and is within the approximate density range recommended in the Comprehensive Plan.
3. The Planning and Development Department notes that the subdivision plan should show a subdivision identification sign.
4. The Planning and Development Department suggests that the Planning Commission recommend as subdivision site design conditions the following:
 - The architectural design of the proposed structure shall be consistent on all building elevations visible from public ways.
 - Storage areas, mechanical and other utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with the proposed architectural design.
5. The Planning and Development Department notes that the plan currently shows a paved parking area that appears large enough to provide for the required twelve (12) parking spaces. The parking spaces should be clearly shown as part of the construction improvement plan process to verify the required 12 spaces (3 per unit).
6. The Planning and Development Department suggests the units should be designed to be easily converted to owner-occupant condominiums.
7. The Electric Department indicates:
 - Service is available from pole 14E43 at the southwest side of the intersection of Choate and New Streets. The applicant will be required to pay all costs to have the pole replaced.
 - An open utility easement is required.
 - The developer must agree to pay a \$100 fee per meter for radio read meters.
 - No trees over 18 ft. at maturity can be planted under existing aerial lines.
8. The Water and Wastewater Department indicates the following:
 - The water and sanitary sewer lines on private property will be the responsibility of the property owner.
 - The developer is responsible for the cost of the meter, yoke and remote read device for each unit.
 - Regarding water, a fire flow test to determine what water line size is needed into the site in each apartment will be required.
 - Regarding sewer, a cleanout at the end of New Street behind unit #4 is required, and unit cleanouts should be moved to five feet off the building.
9. The Building Department indicates that Choate Street Commons will be required to meet all Building and Fire Code requirements. The Department has also indicated approval of all demolition of the existing deteriorated buildings, which have raised property maintenance issues in the past.
10. The Public Works Department indicates the following:

- A “stormwater quantity waiver” will need to be requested since there is a change in the permeable surface and over 5,000 square feet of land disturbance at this site.
 - A stormwater infiltration test shall be performed at the site to determine if there is an opportunity to infiltrate any of the site runoff through the use of green technology best management practices. Based on the results of the infiltration test, additional stormwater management calculations will be performed and facilities designed. Based on the results, the necessary stormwater waivers and/or variances must be requested prior to approval by City Council.
11. The Parks and Recreation Department notes the landscape plan submitted meets the requirements set forth in the City Code. The Department, however, would like to see the Okame Cherry tree on Choate Street, which is currently three feet behind the sidewalk, shifted to the north toward New Street (in front of and to the side of the building) placing it four – six feet behind the sidewalk. To accommodate this request, the Okame Cherry tree located on the west end of the site on New Street will need to be shifted to the east about eight feet.
12. The Police Department notes a concern that vehicles exiting the Choate Street Commons project may turn right (against the one-way southbound traffic on Choate Street) to access New Street instead of driving down Choate to Main Street. Design options should be reviewed through the construction improvement process to minimize this concern.

Recommendation

The Planning and Development Department believes that the proposed rezoning and minor subdivision of Choate Street Commons conforms to land use guidelines in the Newark Comprehensive Plan. In addition, the plan corresponds to the development pattern in the immediate neighborhood of the site. The Department also believes that, with the Departmental suggestions above, the Choate Street Commons rezoning and minor subdivision will not have a negative impact on adjoining and nearby properties.

The Planning and Development Department, therefore, suggests that the Planning Commission make the following **recommendations to City Council**:

- A. That City Council approve the rezoning of the .3513 acre parcel at the southeast corner of the intersection of Choate and New Streets from RM (multi-family residential) to BLR (business limited residential) as shown on the attached Planning Department Exhibit A, dated December 18, 2007 with one revision; and,**
- B. That City Council approve the Choate Street Commons minor subdivision plan, as shown on the Apex Engineering, Inc., plan, dated December 18, 2007, as further revised, with the City Departmental recommended conditions.”**

Ms. Feeney Roser: The applicants are here tonight, and I will be happy to answer any questions you may have.

Mr. Bowman: Do any members of the Commission have any initial questions for the Planning and Development Department?

Mr. Ralph Begleiter: Maureen, do you require power lines to be shown on the elevation drawings when they go forward?

Ms. Feeney Roser: I am not sure, in this case, if they are required. I can look into that and if, in fact, they need to be on the drawings, I can get back to you on that.

Mr. Begleiter: You don't need to get back to me on that, but I think they are required and they should be showing on the elevations. That would affect all four of the drawings we have seen tonight. There is a long overhead utility line that goes along the New Street façade of the building and there is the overhead electric line that crosses Choate Street from the southwest corner of the intersection of Choate and New Streets to the northwest corner of the building. So, I will later suggest that that be part of the recommendation.

Ms. Feeney Roser: I should note, as well, that in front of you at the table there are also conceptals that were submitted after the Planning Commission packet went out.

Mr. Bowman: Just a reminder folks, when you come to the microphone, please introduce yourself; your name, address, who you represent, and if you walk away from the microphone – they are portable mics – take it with you. Our secretary has reminded us that if you don't have the mic in front of you, you cannot be heard and the comments will not show up in the minutes. Applicants and public, please address all comments into a microphone so that they become part of the record.

[Secretary's note: The applicants referred to visuals brought by them for their presentation to the Planning Commission].

Mr. Shawn Tucker: I represent the applicants in this application. Here with me this evening is Mr. Lisa who is one of the representatives of the applicants, as well as, his civil engineer, Jim Lober from Apex Engineering. For the record my address is 1100 N. Market Street, Suite 1001, Wilmington, Delaware.

As Ms. Feeney Roser well articulated, we are here tonight in regard to a proposed rezoning at the intersection of Choate and New Streets. I wanted to give the Commission the benefit of a picture of what it looks like today. I am sure you have all been by there, but often a picture is worth a thousand words. As Ms. Feeney Roser indicated, this area is designated in the Comprehensive Plan as an area to be redeveloped; and certainly, these homes, while nice and in compliance, could certainly use a face lift. I think the architectural that you have before you provide a very dramatic contrast in comparison to what you have today vs. the investment that my clients are proposing for the future in Newark.

With your okay, what I would like to do is simply jump into some testimony, if I may, with Mr. Lisa regarding some of the specifics that he has in mind for the site, as well as his conversation with neighbors who are supportive of this project or have taken no position adverse to the project in the things that he has done over the past in terms of making this application which will bear a little bit on the architectural and the money he has investing. What I would respectfully submit are some very nice architectural designs for this corner.

Mr. Tucker: Mr. Lisa are you being a representative on behalf of the applicants here this evening?

Mr. James Lisa: Yes I am. Good evening, I am James P. Lisa, Jr., 211 South Pond Road, Hockessin, Delaware, 19707.

Mr. Tucker: Can you tell the Commission what the current uses are on the properties today that are subject to this proposed rezoning and minor subdivision plan?

Mr. Lisa: Student rental properties.

Mr. Tucker: Can you give the Commission an idea of the character of the properties immediately surrounding you?

Mr. Lisa: Student rental properties. It is my understanding the entire street as well as the street behind it, which is Chapel Street, are all student rental houses.

Mr. Tucker: Can you give the Commission an approximate idea of the age of the buildings and homes that are on your parcels.

Mr. Lisa: When we purchased the houses, we did have home inspections done. It was estimated to be in excess of 100 years old. I would say that the inspector guessed it to be up to 150 years old. They are definitely defined as beyond their useful lives.

Mr. Tucker: Can you give the Commission an idea of what steps you undertook in terms of a design for this corner that you thought would be aesthetically pleasing and a far improvement over what exists at this intersection today?

Mr. Lisa: Would you mind rephrasing that.

Mr. Tucker: Can you tell the Commission if you hired an architect?

Mr. Lisa: Yes, we did.

Mr. Tucker: Who was that?

Mr. Lisa: We hired an architect – David Newth.

Mr. Tucker: Did your architect prepare some drawings of the proposed elevations for this structure?

Mr. Lisa: He did.

Mr. Tucker: I am going to hold these up. I am not sure they are marked for the record, but if we could consider these collectively Exhibit A, for the record. Are these the four exhibits or elevations that correspond to your vision of the improvement at this intersection?

Mr. Lisa: They are.

Mr. Tucker: Are they the same ones that were submitted to the City as part of the package ultimately going to the Planning Commission?

Mr. Lisa: Yes they are.

Mr. Tucker: Can you tell the Commission a little bit about the details that you are proposing here and the architectural features in particular?

Mr. Lisa: We wanted to have something a little bit different than was there. We still wanted to have a residential type of feel. We wanted to have them look nice. We wanted to build something we could be proud of. Basically, instead of being one straight line with a flat front wall, we went two units and then bumped back two feet and went with another two units and bumped back two feet. And, then, we actually took within each of the two units themselves, we bumped sections of those individual units as well about two feet and surrounded those all with brick. So, that way it wasn't one straight façade, two-by-two, and not one straight line of just four. So, we wanted to do that, which we thought was a little more architecturally pleasing rather than just being something in a straight line. There are bay windows throughout the front of the units as well as around to the side. The other things we did were, put partial brick because we actually looked at the architecture that way and thought it was too massive with all brick. We thought it was tasteful with the way this was designed and just complimented it. The other would be a high-grade siding but it is not just straight siding because even at the tops where there are peaks we used the fish scale type up there. There was also a design that looks like a big window to kind of break it up. And, then, above every one of the windows we actually put keystones. Around the front the choices were either shutters or keystones. We liked the look of a keystone. If you look at some of the University buildings around town, they seem to be more keystone oriented than they appear to be shutter oriented. So, that is why we went with that. The entrance ways as opposed to having them have four doors that would be exposed to the external, we did overhangs so that way they would look like a common entranceway but they would be separate doors going in. So, when you came around the side of Choate Street, we wanted that to look almost like a front as well. So, those are some of the design things that we looked at.

Then at the back we kept brick at the lower level. Originally we had discussed putting decks there; and, ultimately, we decided that that was not a good thing to have. We feel that we have a fairly substantial landscaping package, certainly a lot different than what is there now.

Mr. Tucker: When I say this, I will refer to it as Exhibit 3, if that is okay. And, I will label it at the end of the hearing. Mr. Lisa, can you tell the Commission if this is the landscaping plan you were just referring to?

Mr. Lisa: It is.

Mr. Tucker: That is the official one that is with the Department but it is colorized for this evening?

Mr. Lisa: That is correct.

Mr. Tucker: Is the plan that you intend to follow subject to any changes that the City may have between now and, hopefully, final approval.

Mr. Lisa: That is correct.

Mr. Tucker: Before making this application did you make any attempt to reach out to neighbors to determine what their appetite might be for this redevelopment?

Mr. Lisa: I did.

Mr. Tucker: Did you obtain signatures in support of an application at this proposed density and even a greater density at one time?

Mr. Lisa: We did. Actually, all at greater densities.

Mr. Tucker: In fact, you had originally sought a plan that would have had additional units but decided to scale that back. Is that fair?

Mr. Lisa: We designed plans for seven units, six units, five units and now we have a design for four units. It was at six units and five units when we had gotten support from surrounding neighbors.

Mr. Tucker: If I could, Mr. Chairman, I would like to refer to the landscape plan as Exhibit Five that we were referring to earlier. And, if I could hand forward a petition and letter which are marked as Exhibits 3 and 4 for the record. Mr. Lisa, can you give the Commission a summary of the folks you obtained the petitions from and the letter from; and, also explain the fact that some things have changed since you have gotten those letters a year or two years ago.

Mr. Lisa: Basically, I began seeking support probably in 2006, which is when I had produced a drawing with units on it. I have had plans prior to that. We had, actually, through inspections and working with the Building Department, they kind of knew that the houses were beyond useful life. Actually, one of the houses we have there currently, when you walk up the steps you hit your head. It has a valid permit in it, but the house is just really old, tired and beat up. They have no modern amenities. They are all, basically, totally shot. The Building Department actually spurred me – believe it or not – saying have you thought about doing a plan. That was back in 2003. So, it wasn't like it was yesterday. But, we began that process and in 2006 when we had our first set of drawings together, I went out and started talking to the neighbors. Basically, Exhibit 4, which looks like this, the folks that have signed it, these are both rental properties right there, but they both have signed it. These units right here, I talked to them on the phone. They are all rental units. They weren't interested in seeing the plan or talking about the plan any further. They said they had no opposition to the project. The individual who lives immediately next door was Mrs. Brackbill. She had lived in Newark for a number of years. There were four generations of people living in there. She grew up in the house. So, I would say she has been there all of her life. She has recently just sold her house and has moved. It has been

purchased by a gentleman named Steve Ross, who I understand is a rental person. I do not have his contact information. I guess I could find it from the City, but I have not talked to him. I believe this is fairly recent.

The letter that you have before you is these two right there. That is Exhibit 3. Theo Brans is a Newark resident who now lives down at the beach, but he owned both of these houses right there. He was very much in favor of it. He thought that the area needed redevelopment and was in favor of it. He thought anything that would raise the house values was good for him as well. Through the two years I have actually purchased those. He supported them before and now we own them. We actually own that property right there. We did not sign any letters, but we are obviously in support of our project.

The property owner right here is an LLC. I made contact with them similar as I did with these owners right here, and it is a rental property. They weren't interested in seeing the plan. They said they had no problem with it. They thought, if anything, anybody spending that kind of money would drive the value of their property up. They did not want to meet and talk about it any further, but they verbally told me they were fine with it.

We actually own this house right here as well. And then, next to it, which is one down, it doesn't even show on the plan, it is people we have tried to contact for a number of years. They are the one remaining residents that actually live on the street and have also been there for years. I did meet with them two evenings ago. They are kind of hard to get. They like to stay to themselves. I did meet with them. I showed and shared the plans with them. They told me they had no problem with it and that they had no opposition to it and that anything that would bring the value up – and they viewed it as being valuable – they would be fine with the project.

The final property that would abut it is up here and that is the Methodist Church Cemetery.

Mr. Tucker: If I may, I would like to give a brief summary and then I will answer any questions you might have for Mr. Lisa or for our engineer this evening.

We and, of course, my client will agree to the conditions that have been recommended this evening by Ms. Feeney Roser as part of her recommendation. As per the conclusion in Ms. Feeney Roser's recommendation, we believe the plan is consistent with the spirit and intent of the Comprehensive Plan. We would respectfully submit that the architectural we have provided are a good quality architectural that will improve this corner dramatically over today's conditions. As Ms. Roser also indicated, this development pattern is consistent with the development pattern in the area. Originally there were four lots and there are four lots or parcels today. We will be providing four units consistent with the number of parcels that consist on the maps today. I think most importantly in Ms. Feeney Roser's recommendation, the Planning Department found no adverse impact. I would submit that in this case it is a very positive impact, not just on the immediate neighbors, but on the City as a whole. And for all these reasons, we are asking for your support and recommendation to City Council in regard to this application. And, again, we would be happy to answer any questions.

Mr. Bowman: We will bring it back to the table, but first, Mr. Lisa, I'm not sure whether you are the defendant or the plaintiff in this case. It sounds, with Mr. Tucker, that you might be the defendant. The jury is still out whether to find you guilty or not guilty, yet.

Are there any questions for either of these two gentlemen from any members of the Commission?

Mr. Begleiter: On the landscape plan (Exhibit 5), there is a reference to a proposed silt fence. It is the one that abuts the electric meter and you have a notation there. I have been by the house so I can see why you have it there. There is an electric meter on the Brackbill's house on the left-hand side of the drawing there. It says, allows access to the meter. So, I am curious as to what is a silt fence, as opposed to the other fences? I under what they are.

Mr. James Lober: I am with Apex Engineering. For the record, our address is 27 W. Market Street in Newport, Delaware. The way we work this from an engineering standpoint is we give the landscape architect our engineering plans to use as their base. She, then does a beautiful job of artistically showing you the landscape on the plan. The silt fence is not any element of the landscaping. It is an element of our temporary erosion and sediment controls that were on the plan for when the grading takes place. You are probably familiar with it. You see it everywhere. It is the short black plastic. It will be there during construction and then it will be removed.

Mr. Begleiter: It is not something that will interfere with the electric meter, which is why I asked the question. Thank you for the explanation.

Just for the record. You have presented a packet of four drawings tonight, which you have identified and spoken about and you referred to them as the ones presented to the Commission. But, the Commission had a previous packet that contained some other drawings. I just want it to be in the record that that previous packet is not under discussion tonight. The previous drawings that we all received from you are not under review.

Mr. Tucker: That is correct. It is the revised larger ones. It took us some time to get those architectural redone when we agreed to reduce the density.

Mr. Begleiter: The drawings don't seem to indicate – at least not visibly to me – the end door on Choate Street and its roof. Just point to me where that door will be placed.

Mr. Tucker: Mr. Lisa, if you could point – and for the record, generally the civil drawings won't show the three dimension coming up, the construction plans will. They will have to be consistent with our exhibits. But if you could please give the Commissioner an approximate location where that door will appear that shows on the architectural plans.

Mr. Begleiter: Do you know which one I am talking about? This one. The door faces Choate Street and the other doors are indicated by the concrete walkways and stairways and the overhang, which you have talked about already on the front on New Street, but the other one doesn't show.

Mr. Lisa: It would probably be right around here where you see the 35. It would be approximately where the 5 is.

Mr. Begleiter: Will the drawings be revised before they go to City Council to show the actual placement of the doors?

Mr. Tucker: We certainly would be willing to do that. I am not sure why the engineers showed them in the front and not the sides. I don't think they are required on this drawing, but we will certainly add them, Commissioner.

Mr. Begleiter: It is not a question of whether it is required or not, but it goes to my next question which is about the driveway and the issue of turning right and the line of sight. It might be helpful since the public safety office raised the question to indicate that there won't be any blockage of the line of sight in that direction because it will be an important line of sight. Traffic coming around New Street onto Choate Street will all be driving south toward Main and may, in fact, be driving on the side of the street. They won't be on the opposite side of the street. It is a one way so they may be very close to the driveway. As you take into account how you organize the driveway, you want to be aware of where the overhang is and where pedestrians might be stepping out. That is the reason I am asking that question.

Mr. Tucker: We will be sensitive to that issue as part of this plan. We know an alternative is to come out onto New Street. The downside to that, though, would be an increase in impervious cover, and we have a nice chunk of open space there. We will probably be discussing such things as signage for people coming out so that they know one way. We will probably put that on our client's property so there will be some nice visual indicators and anything else that might be recommended by Planning.

Mr. Begleiter: The properties on the west side of Choate Street, Mr. Lisa, you are obviously building an array of lots there. You told us that you went to great length to tell us how long you have been working on this project since the early 2000s, is it fair for us to assume that you have in your vision a project for sometime in the future on the west side of Choate Street also that might incorporate the single lot on that side of the street that you don't currently own?

Mr. Lisa: I didn't really plan on buying the two that Theo Brauns asked me if I wanted to buy, so that was just happenstance. It is actually detached. They are in quite good shape. I paid a lot of money for them so, I don't think that would happen. And this one, they are pretty much rental people and want to stay. I understand that they might be trying to redo the Casablanca, and I didn't ask them to sell. They really didn't want to meet with me. So, that leaves this one. It is a fairly narrow lot. I have had it for years. Actually, the person that sold me the house is sitting in the room tonight. I will say that this property, 43 Choate Street, is fairly old. It is fairly dilapidated. It is probably in the conditions of these. Do I have plans? No. Am I thinking about anything on that side of the street? I am thinking a little bit about what I can do with 43 Choate Street, which is directly next to the other year round residents, with whom I have a very good relationship. They do like to keep to themselves. I don't want to say that I am going to do anything with that until I talk to them.

Mr. Begleiter: The only reason I am asking, again, if in terms of the vision of the intersection, I was thinking that you may have had in mind at a similar building on the other side, but apparently that is not the case.

Mr. Lisa: I think the value I paid for Mr. Bran's (inaudible). I can never say never.

Mr. Begleiter: None of us can predict the future.

Ms. Dressel: I would just like to say that I am glad that you submitted some new drawings because I was very, very confused by the ones that we got in our packet. There were six doors on it and I didn't really understand when the proposal was for four units. Again, you have presently, with this one diagram, four doors coming from the front and on the side there is a door to the side. None of the other units will have a second door as an exit from the townhouse unit, I presume, based on this.

Mr. Lisa: That is correct.

Ms. Dressel: This is more for the look of it on Choate Street.

Mr. Lisa: Correct. And, actually, I shouldn't say that we didn't talk about parking, but there is a garage. Each garage can hold two cars. Directly behind the garage there is room for two spaces. So, each one is designed for four. That particular door should be in the center of that wall which I believe will enter into the end of the garage. It enters into the garage and there is another door going in. It is really there for cosmetic purposes to make it not look like a straight wall. It is my understanding from talking with the architect that it will go into the garage. It will not go into the living area.

Ms. Dressel: Did we request a restriction on the number of residents?

(Inaudible)

Ms. Dressel: Is there a reason for that?

Ms. Feeney Roser: I don't think that we felt the parking was adequate and that the building was designed to hold four residents. I don't know that you would have an objection to limiting to four tenants, would you?

Mr. Tucker: Currently, there are four tenants in the existing and we would not want to restrict that. Depending on the market and ultimately what happens at this particular site, we would not want to comment to any particular number of residents. When you are dealing with the brick construction and this level of detail and the extra expense that goes into these

types of plans, you really need that flexibility of being able to rent to more than four, not knowing for sure what the future may hold, especially in this market.

Ms. Feeney Roser: In BLR there are no requirements in the Zoning Code on the number of unrelated individuals who may reside there, like there are for residential zonings. It is a business zoning and it is generally determined by the square footage of the unit as to how many people can reside in a dwelling. That is not to say that the Planning Commission couldn't consider it.

Mr. Begleiter: How many bedrooms do these units have?

Mr. Lisa: Four.

Mr. Begleiter: You have four bedrooms and three parking spaces?

Mr. Lisa: There are four bedrooms and four parking spaces. I believe there are three parking spaces required by Code, so there is one extra parking place per unit.

Mr. Begleiter: How many bathrooms?

Mr. Lisa: I believe there are three full bathrooms.

Mr. Tucker: Have you decided on that for sure?

Mr. Lisa: No. We haven't done the interior layout on the actual units. That is why I don't know exactly. I think there are two on the top floor and one on the middle floor.

Ms. Dressel: I am concerned about the density on Choate Street, Mr. Lisa, that with four units and four tenants, that is 16 people, and if there are additional people who are residing there envisioning that you do own land on the other side, it just seems like we are looking at a huge increase in population along there if we don't have a restriction to four residents per unit. I don't know if anyone else on the Commission has a feeling about that.

Mr. Bowman: I do recall from the last one we had that was somewhat similar to this one, we deed restricted it to four. We talked about deed restricting it to three, but we stayed at four.

Ms. Feeney Roser: We stayed at four. That property required a parking waiver.

Mr. Bowman: This one does not. That the major difference.

Ms. Feeney Roser: That and that it is BLR zoning.

Mr. Tucker: If I could make just one footnote that is referenced in Ms. Feeney Roser's report, she does note correctly that the BLR actually permits a maximum of up to 16 per gross area. That could actually be units. We only have four. About a year or a year and a half ago I handled a rezoning. It was Kevin Whitaker – I recall – who did something similar to this where they also did the BLR without the restriction being imposed because it was the BLR zoning district. I would just ask the Commission to consider in making such a recommendation that these types of plans and these types of design are really costly. I have seen a handful of these in New Castle County and the City and I think this is probably – and I will certainly defer to your experience – one of the nicest designs I have seen in terms of using brick and different architectural features. But, those things cost money and when you start limiting the number of folks in the potential rental stream, if it becomes rental, that can have a chilling affect on the ability to do these types of projects. The parking, I think, is what is key in terms of safety and accommodating potentially more residents and that is adequately addressed in this case I would say.

Mr. Bowman: This is a question for Mr. Lisa. Who is going to manage this property?

Mr. Lisa: I will. I currently manage all of our properties in Newark. We don't overcrowd our houses. The more people you put in the houses, it just gets more beat up. You say,

okay, why wouldn't you mind it? I just think to try to be restricted, it hampers us, but it is not our intention to do that because we don't want to spend this kind of money to do that. We are spending this kind of money because we want to start getting the kids with the 3.6 grade point averages on this street instead of the kids that are in the houses that are in the condition that they are in. That is a long answer for, I manage the properties. I apologize for that.

Mr. Bowman: I think you can understand the Commission's concern that eight bodies in each one of those apartments would not be looked upon very favorably for a lot of reasons. The commotion that it would result in would be one of those reasons. The City does have other hammers to use in terms of leverage against both the students and the landlords if things get out of hand. Again, it is up to the Commission to make a recommendation whether or not to request a deed restriction.

We are going to open it up to comments by the public. In light of the fact that we have three items on the agenda tonight, I am going to limit public comment to ten minutes. I don't have any written requests, but I will open it up to the floor. Please step to the microphone and state your name and address. And, I ask that you stick to the proposal, make your comment pertinent so that we can move forward tonight.

Mrs. Jean White: 103 Radcliffe Drive. Some of you on the Planning Commission may remember that you reviewed an ordinance a year and a half ago or so that changed rules of BLR zoning because it was felt that some portion of it was a legal loophole to build apartments on very small areas. At that point, after you passed the ordinance, then it went to City Council, which instead of 3,000 square feet, one half acre would be needed to build townhouse apartments. This project, of course, has .3513 acres. What happened here was that the developer did not know of the change of this ordinance and, therefore, continued to do his planning and spent quite a bit of money. And, then ready to come to you for a zoning change, which you actually don't have to approve it you don't like it. It didn't have now the new required amount of .5 acreage. I went to that Board of Adjustment meeting and I did support the variance because, no matter what I feel about a project, I also feel about fairness. So, I did support that.

What do I think about the plan before you? I will say I am not a fan of the trend, which is becoming a major trend, of putting the garages on the first floor and the living area on the second and third floors. In some places I think it is justified, but the houses on this street at the moment are all basically two and half story. Maybe there are some that are different. They face each other on Choate Street, and now we are putting this in so it is actually facing New Street. For those right across the street, they are going to be looking at the side of the house, but in particular, a good view of the back of this set of four townhouses and also looking at the parking lot. I would have preferred that tearing down the two houses that we are talking about, and building a duplex or triplex there that would still look across and have that sense of neighborhood. That is not happening. But I am going to make some comments given the fact that you may be approving this.

First of all, I do want to say that what has been presented looking at New Street in terms of the setback of two of the units, the use of the brick and the siding together, the porches for the two entryways and other things that were referred to are nice features.

I just have a couple comments. One is, the back of it. I think I had spoken briefly at that Board of Adjustment meeting that I think it is very bland. We can find other places, be it the back of those on Chambers Street, be it the ones on S. Chapel Street, there is a whole set of them that went in. I could talk about other ones elsewhere. When you look at the backs, they are so blah and monotonous and so ugly compared to what could be done. So, I am asking the developer is something about the back which is quite visible from Choate Street, be it some brickwork, be it shutter, be it putting two different kinds of siding. I am sure there are things that could be done and architects know how to do this. So, I am asking that and hopefully there will be a response. Secondly, you have the same architect as Cider Mill, which is the Hal Prettyman project on North Street. I went by there today and noticed that the units that are built there have their air conditioning unit off the back above the garage on sort of a little porch type thing. Even though it may be very secure, it gives the effect that this thing could fall down and hit you on the head. I wondered what you were

doing with the air conditioning units here. It is not shown on your elevation over there where you see the backs, so I would like to have that question answered. Is it possible to put those air conditioning units some other place such as on that strip between the different garages on the ground as opposed to out from the second floor in the back. It is not one your elevation but if you go by to look at the Cider Mill ones, you will see what I am talking about.

I also feel that this should be restricted to four unrelated people. If you put families they can have as many as possible. If you have twins and three other students, you can have five. I feel that the density and people and all the other things that happen that it should be four. There was another situation that came to you but it hasn't come back so I don't know what is happening and that is where the Casablanca was. I believe Mr. Lopata at that point was acting as the Planning Director up at the table. There was a very strong statement made at that Planning Commission that it should be restricted to four and those who where the developers there were highly indignant and didn't like it, but it was very strong that that should not be more than four. So, I would like the Planning Commission to seriously consider limiting it. I think that, actually, the developer, once these are built, will find that they will find students or whoever they might be if they are unrelated will stick to four. Generally speaking, if they are willing to move off campus, they tend to want a bedroom to themselves.

This is an issue, since you are going to have a parking lot like that, granted there will be four garages with two cars in each and then cars can park behind them, but you now have a larger macadam space which lends itself at certain times to outdoor parties. It may be too early in the game, but I wondered if the developer had thought, as some landlords have done on Chapel Street, of limiting the size of outdoor or indoor parties. In some cases, landlords have limited it to parties of 15. Since you have four units, that would be 60. I am just writing this down. I know you want to have the best interest for your best management. In light of the things that have happen during Chapel fest, sometimes it is good to think about these things ahead of time.

Then I had a very tiny unimportant question. The elevation over there of the back shows that there is a slight overhang as you go into the garage and then there are dividers between each set of garage and then there is a grass strip. There is not only a grass strip on the side out but on the side between the divider and inward and it looks like it is under the overhang, and I wondered how that grass gets watered.

Mr. Tucker: We certainly appreciate Mrs. White's concerns. We know she is dedicated to looking out for the City and regularly attends the meetings. She was at our variance hearing. We appreciated her support. I just want to note that the folks that are most impacted by this are my clients neighbors, and they are supportive or, at least, not in opposition. I think that speaks volumes to what will be the real impact and probably whose input, I would submit, matters perhaps more than those who live a significant distance away. They are not here tonight and were supported in writing by petition or otherwise. I would just ask the Commission to give weight to that in terms of what looks the best or what doesn't look the best in terms of neighbors.

I know there is concern about partying, we are hearing, in the parking lot. Look, we are not adverse to reasonable conditions. I am not sure how you regulate that one. I have not heard of that one before. One of the things that we did make clear to the Planning Department is that there would be no decks, as my client indicated, because there was a concern that people would be out on the decks and making noise. So, we, actually, on the architecturals don't show any decks. There won't be decks, and if that is a condition you would like to firm up as part of the recommendation, we certainly have committed to that and we think that architecture designs lock us into that. But, if you want to articulate that in the recommendation, too, that is a mechanism that, I think, is reasonable to try to control that type of concern.

The central air condition location, we are not even at that level yet. If they are on the ground, I know that they get beat up a lot from grass cutting and traffic and things. Often developers are now elevating them up either several feet or up higher. We will certainly look at that. I would ask that we don't get any specific restriction on the air conditioning at

this phase. We certainly would work with the City if there is a City concern about those types of things.

Regarding the blandness that Mrs. White expressed regarding the rear of the building, Mrs. White did come up to me after the Board of Adjustment and she made the same comment. I thought that shutters might look nice there. I talked to my client about that, and as my client pointed out we are doing the keystones. The keystones are actually more expensive than the shutters. He thought personally that the keystones were a nice feature. Obviously what you think tonight matters the most. I think either the shutters or the keystones would work, but I would submit that the keystones are aesthetically nice and would be consistent with the front as well. Like I said, there is flexibility there and maybe the beauty is in the eye of the beholder. The keystones were offered up to be consistent with what is in the front as well, and the shutters were pretty much avoided around the whole project because of the keystone feature.

Mr. Bowman: We will bring it back to the table.

Mr. Begleiter: Maureen, what was in your head when you wrote the recommendation that the architectural design be consistent from all façades visible from the street other than the boilerplate language which is in all the proposals?

Ms. Feeney Roser: It is boilerplate language. I personally believe that although there is not as much brick in the rear that the spacing of the windows shows a good rhythm, and I think the keystones carried through the siding, and there is some brick, and there is landscaping, I thought it was consistent throughout the facades.

Mr. Begleiter: So, when you wrote that requirement in, you weren't indicating your desire to have any changes made.

Ms. Feeney Roser: No, I just wanted to make sure that when it was built that it looked consistent on all sides.

Mr. Begleiter: The developer has already committed tonight to accept that condition that it be consistent all around. So, really it will come down to whether we decide that it is inconsistent in some way. I guess I was just asking to see whether you did.

The other thing that you mentioned in your report – but I don't think it is a condition – is the reference from the Planning and Development Department talking about marking the parking spaces.

Ms. Feeney Roser: It was hard for us to tell from the plan that there were going to be two spaces inside the garage and a space for two outside. So, we wanted to make sure there was adequate parking. It certainly looked like it would be, but we wanted it clearly shown.

Mr. Begleiter: And when you look at the drawing of the parking space with your expert eye, is there adequate capability for the four vehicles that are in this space to get around and get in and out?

Ms. Feeney Roser: Yes.

Mr. Begleiter: And, is there anything we can or should do to prevent the rest of this space from being used as parking area which would effectively prevent other vehicles from getting in and out of the spaces? This is a large paved area which given the very close quarters of that neighborhood in town, it could very easily become a place where somebody says to somebody else, hey, I will pay you a few bucks, just let me park over there.

Mr. Bowman: Ralph, I don't know if there is anything that we can do, but if I were the owner of that building, I would post, parking for tenants only, vehicles to be towed at owner's expense. After you get whacked for a \$150 towing charge and your car impounded for a few days at \$25 a day, I think that will take care of it.

Mr. Begleiter: What if you were the owner and some student came to you and said, you have a lot of space in that lot, I will pay you X dollars and the owner said never mind the posting.

Mr. Bowman: I don't know that we can control that.

Ms. Dressel: I would think that one way to do that is the requirement of four residents per unit with a maximum of four cars per unit.

Mr. Begleiter: It wouldn't prevent non-residents from paying for the parking spaces.

Ms. Dressel: Well, they could pay for the spaces as long as there were only 16 cars parking there. Do you know what I mean?

Mr. Begleiter: Because the residency limit would limit the number of cars that are parked there even if they aren't residents there?

Ms. Dressel: Yes. That is what I am proposing.

Mr. Begleiter: Would it Maureen?

Ms. Feeney Roser: It sounds like that would work. There is a 20 ft. driveway entrance. You need 24 ft. for an aisle way, but this just a driveway. You probably could get away with parking a car or two there and not affect the egress and access for the rest of the parkers. How does the developer feel about prohibiting the sale of permits for parking?

Mr. Tucker: We wouldn't be opposed to a deed restriction or a condition on the rezoning that indicated that there could not be any non-resident parking permitted. We have no problem with signage being put up and we have no problem with that actually being a condition that if non-residents were paying to park there or there was some horse trading going on that that would be prohibited. I think that will get you to the same result. In fact, it may be a bit stronger to address, at least Mr. Begleiter's concerns, because non-residents just couldn't be paying to park there, period, whether it was limited to so many occupants or not. We also could design or shorten the driveway and provide some more open space.

(inaudible)

Mr. Begleiter: With all do respect, the space on the grass is going to get overrun by tires very, very quickly. There will be no grass there and there will be no plants there.

Mr. James Lober: So, you were thinking that the parking would occur in the grass.

Mr. Begleiter: Right now I am talking about the grass separations between the units which, if it turns out to be the way it is in your drawing, these nice Chrysanthemums will be run over in no time if there is a car parked over here and they can't get out. They won't worry about that. I think that does go on in those streets. I think non-residents do, in fact, make deals with friends in those apartments and those houses who say, I am going to be away for a week, or I am going to be at class all day, so you can take my parking space. Something like that.

Mr. Tucker: Understood, and we will voluntarily deed restrict against that for sale parking or horse trading type parking that might be going on.

Ms. Dressel: I don't really have a problem with non-residents parking their cars there if the residents don't have cars. What I have a problem with is thinking that there is going to be a lot more than 16 cars. I think it is perfectly reasonable if you have a rental unit with four people in it and none of them have cars or only one person has a car, that they are going to have a friend leave their car there and they may or may not provide reimbursement. My concern is the number of people there, and I think I am going to come back to that. I know the zoning is slightly different, but we have talked at length about keeping it at four residents per unit. With it being four bedrooms, I think it is reasonable to restrict these units to four

residents per unit with the proposal that it also be deed restricted to four cars per unit for a total of 16 cars for the entire development.

Mr. Bowman: Do you want to add that as either item #13 under the recommendations or item C?

Ms. Dressel: I guess I would add it as C.

Mr. Bowman: That the applicant voluntarily deed restrict the unit to four unrelated occupants for a total of 16 cars on the property.

Ms. Dressel: That is correct.

Mr. Tucker: Mr. Chairman, if I could make just one observation and I will sit down. I understand Ms. Dressel's concern, but I would make this observation, though. Currently, there are four parcels. My client could seek with special approvals to actually build four separate homes. That is not what he desires, but understand that those conditions wouldn't apply. In other words, today you could actually have four rental units within each house. And, in fact, I believe one does and is permitted to do so. Please try to understand that we are not here asking for a density that we couldn't actually achieve. We are actually here asking to do something that is more like site plan review where you are having more condensed development in one area of the lot. You are having more open space and you are having a lot nicer, I would submit, architectural features. If the Commission starts to recommend against a density that you can already get today and starts restricting that while people are trying to do these redevelopment projects, I submit, that you are going to send the wrong message to folks. You are going to send the message to folks that what you have today in terms of density can be taken away if you do this redevelopment in downtown Newark. Ms. Dressel, you may not know that we can do that today. I just want to make sure you do because, I think, that will have folks going, wait a minute, why I am going to invest this money if I am going to have my density or how many rentals I could have reduced when today I can do it. It might cost more to build four homes.

Ms. Feeney Roser: At present there are two residential structures and it is zoned RM, so in order to do something of an apartment type development, you would need an acre to do that in RM zoning and you don't have that. RM also limits the number of unrelated individuals to four.

Mr. Tucker: What I am suggesting is that my client can make application to build homes on the other two parcels.

Ms. Dressel: But, they would still only have a restriction of four residents per unit.

Mr. Tucker: I don't think that is a restriction in RM.

Mr. Bowman: It is four unrelated, if it is a rental unit.

Mr. Lisa: There are three tax parcels. There are four lots. We could make application for each of the lots to do four separate houses or detached houses. We could do two separate duplexes and we would need to get variances and things of that sort underneath of that, but we wouldn't have to do a site plan. We would do flat out sitting all around the house. We don't have the intention of putting more than four in there, but we think that we can regulate it on our own, and we don't want to have the house beat up. We are designing the house with four bedrooms, and I think the Planning Department had asked if we develop this in such a way that if there comes a residential market, we could sell it. We don't want to have any type of restrictions that are passing in regards to parking or (inaudible). Who knows, if we sell it in ten years to a resident that wants to use it, and in ten years further they will want to resell it. We don't know, but I don't want to have people beating the house up in there, but we could. That is the answer to that. I will just say to the parking issue, New Street, I don't know if people know this or not, but there are no permits on New Street. It is first come, first serve. I am not saying there is not a parking issue in Newark and I am not saying that there isn't one on that street, but I can tell you whenever I go down there to visit those houses, I can generally find myself a parking place on New Street even during the school

year. I don't think we have quite as much of a problem as, perhaps, some of the other streets.

Mr. Tucker: Mr. Lisa, is your permit right now for the existing homes is it four rentals?

Mr. Lisa: I have two separate permits, one for four people in the corner house, and I have a permit for four in the other house. I have permits for eight people currently.

Mr. Tucker: And is it the permitting of the City that mandates four per unit.

Mr. Lisa: It is. RM zoning dictates four per unit.

Mr. Bowman: Back to the table.

MOTION BY DRESSEL, SECONDED BY McDOWELL, THAT THE PLANNING COMMISSION RECOMMENDS:

- A. THAT CITY COUNCIL APPROVE THE REZONING OF THE .3513 ACRE PARCEL AT THE SOUTHEAST CORNER OF THE INTERSECTION OF CHOATE AND NEW STREETS FROM RM (MULTI-FAMILY RESIDENTIAL) TO BLR (BUSINESS LIMITED RESIDENTIAL) AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A; AND,
- B. THAT CITY COUNCIL APPROVE THE CHOATE STREET COMMONS MINOR SUBDIVISION PLAN, AS SHOWN ON THE APEX ENGINEERING, INC., PLAN, DATED DECEMBER 18, 2007, AS FURTHER REVISED WITH THE CITY DEPARTMENTAL RECOMMENDED CONDITIONS; AND THE ADDITIONAL CONDITION THAT THE APPLICANT VOLUNTARILY DEED RESTRICT THE PROPERTY TO LIMIT THE TOTAL NUMBER OF UNRELATED INDIVIDUALS RESIDING IN EACH UNIT TO FOUR; AND, THE TOTAL NUMBER OF MOTOR VEHICLES PERMITTED ON THE SITE LIMITED TO SIXTEEN.

Mr. Begleiter: Maureen is there any reason why that couldn't be done under the change of zoning because this involves a change of zoning? We can apply that recommendation?

Ms. Feeney Roser: Absolutely.

Mr. Begleiter: I would like to request that we add to the recommendation the requirement that the drawings be corrected to show the placement of the end door and the overhead utilities and that the elevations be corrected.

Mr. Bowman: Under the various departmental recommendations.

VOTE: 4-0
AYE: BEGLEITER, BOWMAN, DRESSEL, McDOWELL
NAY: NONE
ABSENT: BROWN, OSBORNE, SHEEDY

MOTION PASSED UNANIMOUSLY

4. REVIEW AND CONSIDERATION OF THE MINOR SUBDIVISION OF THE ONE ACRE PROPERTY LOCATED BETWEEN NORTH STREET AND N. COLLEGE AVENUE FOR A FIVE UNIT APARTMENT BUILDING.

Ms. Feeney Roser summarized her report to the Planning Commission which reads as follows:

“On April 2, 2008, the Planning and Development Department received an application for a minor subdivision of the 1.0006 acre property located at 18 North Street, between North Street and N. College Avenue for a proposed five apartment unit building,

to be added to the existing five unit one-story apartment building on the site to be known as White Clay Vista. The plan also calls for the demolition of an existing single-family dwelling and detached garage to accommodate the new building.

Please see the attached Clifton L. Bakhsh, Jr., Inc., minor subdivision plan, architectural renderings and supporting letter.

The Planning and Development Department's report on the White Clay Vista project follows:

Property Description and Related Data

1. Location:

Between North Street and N. College Avenue.

2. Size:

1.006 +/- acre.

3. Existing Land Use:

Five unit apartment building directly adjacent to North Street.

4. Physical Condition of the Site:

White Clay Vista is a developed site containing one five apartment unit building on North Street and a vacant and deteriorated single family unit with detached garage and an outbuilding. The site also contains several large trees.

In terms of topography, the entire site slopes to the north. At the northern boundary of the property the slope becomes more severe, just adjacent to the Pomeroy Bike Trail, which is currently under design.

Regarding soils, according to the U.S. Department of Agriculture's Natural Resources Conservation Service, the site contains Manor-Glenelg-Chester-Urban Complex soil. The Natural Resources Conservation Service indicates that this is a developed soil for which no development limitations for the use proposed are indicated.

5. Planning and Zoning:

The White Clay Vista proposal is for property currently zoned RM. RM is a multi-family zone that permits the following:

- A. Garden apartments, subject to special requirements.
- B. One family, semidetached dwelling.
- C. Boarding house, rooming house, lodging house, but excluding all forms of fraternities and/or sororities, provided that: The minimum lot area for each eight, or remainder over the multiple of eight residents, shall be the same as the minimum lot area requirements for each dwelling unit in this district.
- D. Nursing home, rest home or home for the aged; with special requirements.
- E. Accessory uses and accessory buildings customarily incidental to the uses permitted in this section and located on the same lot, including a private garage, excluding semi-trailers and similar vehicles for storage of property.
- F. Cluster or neo-traditional types of developments, included uses that many not be permitted in this district, as provided in Article XXVII, Site Plan Approval.
- G. One-family detached dwelling.
- H. The taking of nontransient boarders or roomers in a one-family dwelling by a family resident on the premises, is not a use as a matter of right, but is a conditional use subject to special requirements, including the requirement for

a rental permit, and provided there are not more than three boarders or roomers in any one-family dwelling.

- I. Church or other place of worship, seminary or convent, parish house, or Sunday school building, and provided, however, that no lot less than 12,500 square feet shall be used for such purposes.
- J. Public and private elementary, junior, and senior high schools.
- K. Municipal park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreation purposes.
- L. Municipal utilities, street rights of way, treatment plant.
- M. Temporary building, temporary real estate or construction office.
- N. Utility transmission and distribution lines.
- O. Public transportation bus or transit stops for the loading and unloading of passengers.
- P. One-family town or rowhouse subject to the requirements of Sections 32-13(1) and 32-13(c)(1).
- Q. Student Homes, with special requirements

RM zoning also permits with a Council granted Special Use Permit the following:

- A. Conversion of a one-family dwelling into dwelling units for two or more families, if such dwelling is structurally sound but too large to be in demand for one-family use, and that conversion for the use of two or more families would not impair the character of the neighborhood, subject to special requirements.
- B. Substation, electric, and gas facilities, provided that no storage of materials and trucks is allowed. No repair facilities are allowed except within completely enclosed buildings.
- C. Physicians' and dentists' offices, subject to special requirements.
- D. If approved by the council, property in a residential zone adjacent to an area zoned "business" or "industrial" may be used for parking space as an accessory use to a business use, whether said business use be a nonconforming use in the residential zone or a business use in said adjacent area zoned "business" or "industrial."
- E. Police and fire stations, library, museum, and art gallery.
- F. Country club, regulation golf course, including customary accessory uses subject to special requirements.
- G. Professional offices in residential dwellings for the resident-owner of single-family dwellings permitted subject to special requirements.
- H. Customary Home occupations with special requirements.
- I. Public Transit Facilities.
- J. Private (nonprofit) swimming clubs.
- K. Day Care Centers with special requirements.

Regarding the applicable RM zoning area requirements, the White Clay Vista proposal meets all applicable Zoning Code area requirements.

Regarding adjoining properties, the lands immediately to the south of the site, fronting on the north side of North Street are zoned RM and contain single family type rental homes. The lands across North Street, also south and west of the site, are zoned BLR and contain the under construction Cider Mill townhouse apartment development. Other lands south and east of the site, also across North Street are zoned BC and contain an automobile repair facility. To the north of the site is the old abandoned railroad line (part of the Pomeroy Trail) that is zoned MI. Further north of the Pomeroy Trail are RD zoned properties along White Clay Drive containing single-family detached and semi-detached homes.

Regarding comprehensive planning, the Newark Comprehensive Plan calls for "single family residential (medium density) uses," in the Planning Section within which the White Clay Vista property is located. The Plan defines single family residential (medium density) as "areas designed for dwellings occupied by one

family, either detached, semi-detached, or townhouses, with overall densities of four to ten dwelling units per acre.

Please note, in this regard, that the White Clay Vista plan calls for ten units per acre.

Departmental Comments

The City's Management, Planning and Development and Operating Departments have reviewed the White Clay Vista development project and have the comments provided below. If necessary, the plan should be revised as indicated prior to review by City Council.

1. The Planning and Development Department notes that the proposed minor subdivision conforms to land use guidelines in the Newark Comprehensive Plan, and the development pattern in the immediate neighborhood.
2. The Building Department indicates that all buildings constructed on the site must meet the current requirements in the International Building Code and Delaware State Fire Prevention Regulations.
3. The Electric Department indicates that:
 - Service is available from North College Avenue.
 - An open utility easement is required and must be shown on the plan.
 - No trees over 18 ft. at maturity can be planted under any existing aerial wires.
 - The developer must pay \$65 per meter for radio read meters.
 - The developer must \$1,500 towards the cost of a pole mounted transformer.
 - The developer is to install underground, secondary cable to pole at the entrance on N. College Avenue.
4. The Parks Department indicates:
 - Depending on the location of overhead electric wires, landscape plan adjustments may be required.
 - The plan shows an existing Boxelder Tree at the southwest corner of the site (near North Street). There is another Boxelder (not shown on plan) behind the existing one-story apartment building. Both trees are experiencing significant decline and should be removed. The one adjacent to North Street must be replaced; perhaps, with a Kentucky Coffee Tree.
5. The Public Works Department comments are as follows:
 - A stormwater report to include proposed grading, conveyance to stormwater facility and infiltration testing results at the bio-retention area is required. The Department has concerns as to whether the facility as proposed will work adequately for the site to provide the necessary quantity and quality control. If that is the case, the developer will have to provide additional stormwater piping in improvements to the existing stormwater system to provide positive outfall to the White Clay Creek. No outfall will be allowed where the Pomeroy Trail is located. The proposed grading, conveyance to storm water facility and infiltration testing results at the bio-retention area will be required as part of a preliminary stormwater management report before City Council review of the project.
6. The Water and Wastewater Department indicates:

- The old water services will need to be terminated at the main.
- The sewer lateral will need to be terminated at the right-of-way line.
- Water lines shall be connected to North College and North Street. The water line to be located in an easement should be dedicated to the City. Water main to be granted to the City after satisfactory construction.
- The developer will be responsible for the water meters and the STP fee.
- Additional water and wastewater comments will be made during the CIP process.

Planning and Recommendation

The Planning and Development Department, as noted above, believes that the proposed minor subdivision of White Clay Vista conforms to the land use guidelines in the Newark Comprehensive Plan. In addition, the plan corresponds to the development pattern in the immediate neighborhood of the site. The Department also believes that, with the Departmental suggestions above, the White Clay Vista subdivision will not have a negative impact on adjoining and nearby properties.

The Planning and Development Department, therefore, suggests that **the Planning Commission recommend that City Council approve the White Clay Vista minor subdivision plan as shown on the Clifton L. Bakhsh, Jr., Inc., plan dated December 11, 2006 with revisions through May 1, 2008, with the Departmental recommended conditions.”**

Ms. Feeney Roser: The developer is here and I will be happy to answer any questions you might have for me.

Mr. Bowman: Are there any additional questions for Maureen from the members of the Commission?

Mr. Begleiter: Maureen, is 20 bedrooms and 20 bathrooms consistent with the zoning in that parcel?

Ms. Feeney Roser: The zoning of the parcel is garden apartments with four people, so it is possible.

Mr. Begleiter: What is forestry lane?

Ms. Feeney Roser: Forestry lane, as I understand it, is not actually a road. It has a base to it so it can be driven on, but it will look like lawn.

Mr. Bowman: The applicant is here. Please remember that any comments that are made by you or any of your representatives be addressed to the microphone so we get it as a matter of record, please.

Todd Ladutko: 1101 Millstone Drive, Newark, Delaware. I am a managing member of Frogtown, LLC, which is the owner of the subject property. We have been in the real estate business of rental properties and development of rental properties since 1976. My partner and I develop properties alone and together since the 1980s. Our most recent project is Wrightstown Commons, which you may recall is on S. Chapel Street when we redeveloped six existing houses and moved the one Victorian house that was scheduled for demolition and restored it to three apartment units. It is very popular with the community. So, we have had a fair amount of experience working with the City. We do manage all of our own property. Our office is just off Elkton Road on Millstone Drive, Millstone Plaza, another project we were involved in three years ago. The office is on the front and apartments in the back.

A lot of the merits of the project Ms. Feeney Roser already explained. We have an acre of ground zoned RM which conforms to the Code. We currently have five units in the front, which is one two bedroom unit and four 1 bedroom units. In the back there is a single family house, which when we acquired the property was in very poor condition with obsolescent features. That will be removed along with a two-car garage that is detached from the site. Our goal is to build five four-bedroom four-bath units. They will have all the current amenities that one would expect – gas heat, central air, modern kitchens, full appliance package, wired for internet usage, etc. They will also have a two-car garage underneath. Our rendering is a conceptual rendering, but we are planning to alternate with stucco siding on two of the units and the other three will have the stone cement material that looks like stone similar to what you see on the Washington House on Main Street and on some other various projects around town.

The forestry lane was requested by the City because they did not want a continuation loop of traffic through North Street onto N. College. It would increase more traffic onto N. College Avenue. But, the Fire Marshal was concerned about access ingress, egress in an emergency for emergency vehicles. We did the same thing at Wrightstown Commons so there would not be traffic exiting from S. Chapel Street in a cut-through onto Continental Avenue. So, what it is, you take interlocking blocks with holes in them, you lay them down and you put sod on top of them so that way an emergency vehicle knows that. It is on the plans at the fire station that they know how to access it. It is grass so the occupants of the property should not know to drive on it. So that is the term forestry lane.

The units themselves will sit approximately 125 feet off of N. College Street and approximately 180 feet off of North Street so they will not be imposing on the current landscape of the area. The project will have 17 more parking spaces than the Code requires for the number of occupants for the area. We are under the maximum lot coverage. We will be less covered than the Code requires. We exceed the open space requirements on that. It does back up to industrial land which is part of the old Pomeroy railroad track. And has now had preliminary approval for the bike trail. My engineer Roger Brickley from Clifton L. Bakhsh, Inc., is meeting with Charlie Emerson to see how our plan will meld with their plan to see if there is anything that would be needed in the spirit of cooperation to make the two projects go forth.

The development conforms to the Code. It is consistent with what is currently being developed. You mentioned Cider Mill and there is also one around the corner at the corner of Wilbur Street and North Street. That is a similar type project. We will blend in favorably with what has gone on in the last two years in that area. We trust that the Commission will recommend favorably to the Council about the approval of the project.

Mr. Bowman: Are there any questions or comments from the members of the Commission?

Mr. Begleiter: I have a question. You did not include, Maureen, in your recommendation that the facades all be similar. Shouldn't they be?

Ms. Feeney Roser: Yes, if visible from public right-of-way.

Mr. Begleiter: I don't think they are visible from any right-of-way with the possible exception of the Pomeroy Trail. I don't know if that ordinance applies.

Ms. Feeney Roser: Pomeroy Trail is much lower than this property. It is good 20 ft. below.

Mr. Begleiter: But the façade will clearly be visible from Pomeroy Trail, won't it?

Ms. Feeney Roser: I don't think so, but I don't know that the developer has a problem with continuing the façade all the way around the building.

Mr. Begleiter: What is on the other side of the building? Because there are houses on the other side of Pomeroy Trail, I think.

Mr. Ladutko: (inaudible)

Mr. Begleiter: This is a facetious question, actually. Is there a vista of White Clay from any point of the buildings you are referring to in this project as White Clay Vista?

Ms. Feeney Roser: You can see the river, can't you?

Mr. Ladutko: In a certain spot. You can see the park.

Mr. Begleiter: Okay, White Clay Park Vista.

Mr. Bowman: Anything else?

Ms. Feeney Roser: This is already zoned RM so there is a restriction on the number of residents.

Ms. Dressel: So, we can put the deed restriction in there and it is not a problem. It is already in there because (inaudible).

Ms. Feeney Roser: Do you have a problem having the architectural design be consistent throughout on all views?

Ms. Ladutko: There are windows in the back of the house, is that what you are saying? You don't want vinyl siding?

Mr. Begleiter: That is it. No cheapo siding in the back. You see it from the other houses and from the Pomeroy Trail.

Mr. Ladutko: Is that a condition?

Ms. Feeney Roser: It is your opportunity to say whether or not . . .

Mr. Ladutko: It wouldn't be bare bones.

Mr. Begleiter: If I may interject. Normally we would get elevations showing all sides of the building. You don't have those.

Mr. Ladutko: I thought the requirement was just from the visible side of the street?

Mr. Begleiter: I don't know the answer to that.

Mr. Ladutko: Since the rear of it was not visible from the street, we didn't think it was necessary.

Mr. Begleiter: So, it is not visible from White Clay Drive or from N. College Avenue?

Mr. Ladutko: There is a side elevation.

Mr. Begleiter: This side elevation is the elevation of the other building, isn't it?

Mr. Ladutko: No, this is the building and this is the side view from N. College.

Mr. Begleiter: And not from White Clay Drive.

Mr. Ladutko: Maybe it was my mistake, but I assumed that since they were backing up to the nature trail and then you have the tree lines and then you have the other houses that you could see the park but you couldn't see the street.

Mr. Begleiter: This is a legal matter. We don't need to be debating the legal logistics of it. In general, is the requirement that it be consistent from public rights-of-way or is it from streets?

Ms. Feeney Roser: It says public ways.

Mr. Begleiter: So, is there anybody that would argue that Pomeroy Trail is not a public way?

Ms. Dressel: No, it is a public way.

Ms. Feeney Roser: I guess the question is, is it visible from the public way. It is a sever slope.

Ms. Dressel: It probably is because the top of it would definitely be visible. Maybe the lowest part might not be, but I know that from my neighborhood you can see everybody's second floors even if you are down on the trail by the park.

Mr. Begleiter: I don't think we need to make this a big deal. I think we can recommend to the developer that in order to have a greater likelihood of success at City Council, demonstrate the façade of the building visible from the public right-of-way. If you want to go there and take a picture and say it is not visible then you can make that argument.

Mr. Bowman: We will open it up to the public.

Mrs. White: 103 Radcliffe Drive. Given what is there in significant disrepair and degradation, I support some redevelopment at this location. I am not sure I support the extent of it. And again, it is apartments stacked on garages for the first floor, but because in this case it is tucked away generally out of view or almost out of view, one could argue that it is less important for those who might care about this kind of design. I am glad to see that every other unit has a different kind of façade alternating the stucco with the stone – whatever is described there. It actually doesn't jump out to me as so different. I would like to see different roof lines so it isn't just one straight roof line across.

Many years ago my husband and I lived on White Clay Drive. At that point the train was still going on the track on the Pomeroy line and then it cut across behind all the houses on White Clay Drive and all the children would all run out to see the one train a day, and we walked on that trail. I haven't actually walked on the part that is going to be Pomeroy Lane for awhile. It is true that there is quite a drop-off there. I do feel, consistent with some discussion at the table, that there should be an effort to make those units as nice as possible to be seen from that side because there will be many more people that will see it from that side than the side that the residents will enter. How much of it we will see, will remain to be seen once it is built. For those of us and others that go on trails that go behind all sorts of manufacturing, and other kinds of buildings; and, on the Amtrak train where you are seeing the backs of things, often times they are not too attractive. I think that there is reason to make this attractive from that side.

This is not important. You do have enough parking places, but at the moment how many parking places are there on the property not counting the ones that you are going to demolish?

Mr. Ladutko: 10 or 12 parking spaces.

Mrs. White: I was interested in how you decided on your plan that you needed 20 parking places because these are going to be four bedroom townhouse apartments, and by the new Code before you submitted this, you need three parking places. So, I would have thought you would need the 10 or 12 you have now plus 15 more. Three for each of the new ones. You still don't have enough. You have 34, so it is not like you have enough. The five new townhouse apartments, each one needs three parking places; and so, there is a place on the Code that says you only need 20 all together. Really you need maybe 25 or something.

I am glad to know that the RM zoning will mean you automatically have four unrelated tenants as a maximum. Again, I think this is an improvement from what is there. I am pleased that the City departments felt it was not recommended to allow driving onto N. College and that the entrances will all be from North Street save if the Fire Department has to get in on this forest lane. So, I think that is also good.

I also think that as an experienced landlord, Mr. Ladutko and those with him will be attentive to their leases in terms of preventing any undue outdoor partying activity that could be detrimental to the area in terms of their management.

Mr. Bowman: We will bring it back to the table.

Mr. Begleiter: Mr. Chairman, just one more detail for the developer. Are there any decks associated with this project?

Mr. Ladutko: There are not.

Mr. Begleiter: It is not indicated on any of the drawings that there are. Since we don't have that rear façade view, we can't tell.

MOTION BY DRESSEL, SECONDED BY McDOWELL, THAT THE PLANNING COMMISSION RECOMMENDS:

A. THAT CITY COUNCIL APPROVE THE WHITE CLAY VISTA MINOR SUBDIVISION PLAN AS SHOWN ON THE CLIFTON L. BAKHSH, JR., INC., PLAN DATED DECEMBER 11, 2006 WITH REVISIONS THROUGH MAY 1, 2008, WITH THE DEPARTMENTAL RECOMMENDED CONDITIONS; AND, THE ADDITIONAL CONDITION THAT THE ARCHITECTURAL DESIGN OF THE PROPOSED STRUCTURE BE CONSISTENT ON ALL BUILDING ELEVATIONS VISIBLE FROM PUBLIC WAYS.

Mr. Begleiter: Can we make that language consistent with the standard language? In the previous design, for example, the façade is not identical but the architectural design is consistent. Just use the standard language.

VOTE: 4-0
AYE: BEGLEITER, BOWMAN, DRESSEL, McDOWELL
NAY: NONE
ABSENT: BROWN, OSBORNE, SHEEDY

MOTION PASSED UNANIMOUSLY

4. REVIEW AND CONSIDERATION OF A CERTIFICATE OF ECONOMIC HARDSHIP TO DEMOLISH BELMONT HALL GARAGE LOCATED AT 203 W. MAIN STREET.

Ms. Feeney Roser summarized her report for the Planning Commission which reads as follows:

“On April 4, 2008, the Planning and Development Department received an application from the University of Delaware for demolition of the Belmont Hall garage, located at 203 W. Main Street. The Historic Preservation Ordinance adopted in 1995, requires Planning Commission and Council review for demolition of all or a significant part of a City designated historic building or site. In this case, Belmont Hall, at 203 W. Main Street is listed as an historic building and site. The garage is located in the rear yard of the property. The applicants are requesting permission to demolish the garage because the building is in poor structural condition. The engineer's report indicates that there are substantial deficiencies that require attention and numerous significant repair items.

The applicants have submitted the attached letter, site information and supporting documentation for their request to demolish the garage.

The Planning and Development's report on the Belmont Hall demolition project follows:

Background

As you can see from the applicants' information, the University of Delaware is seeking a Certificate of Economic Hardship in order to demolish the garage located on the site of Belmont Hall at 203 W. Main Street. The University is requesting demolition because the garage is no longer capable of serving any function other than as a storage building, is rarely utilized in that capacity, and will require significant financial investment to transform the garage into occupied building space. The University had the structure reviewed by MacIntosh Engineering to determine the existing condition of the building, to provide information on whether the building was salvageable and to make a recommendation as to whether or not the building should be demolished.

MacIntosh Engineering recommends that because of the building's state of disrepair and the extensive and expensive renovations/upgrades necessary to bring the building up to current Code rehabilitating the garage is not feasible. In addition to the engineer's report, the University asked Dr. David Ames, Director of the University's Center for Historic Architecture and Design to evaluate the Belmont Hall garage. Dr. Ames' letter, also attached, indicates that without an adaptive reuse for the structure, it would be difficult to justify the investment to bring the garage up to Code, and therefore, he recommends its demolition.

Purpose and Intent

The Purpose of Chapter 7, Building, Section 15, Historic Buildings of the Municipal Code is to provide for the designation of historic buildings, sites, and structures, to establish regulations concerning maintenance of, alteration of, and demolition impact upon such structures; and to establish procedures and requirements for the City's review of such alteration, demolition and maintenance with the intent, among other things, to:

1. Safeguard and prevent further loss of the City's architectural heritage;
2. Stabilize and protect the value of property;
3. Foster civic pride;
4. Promote the use and preservation of historic buildings and sites for the benefit, education, welfare and enjoyment of our City's residents, property owners and visitors.

Review Criteria

For your information, the Historic Preservation Ordinance review criteria is provided below:

Certificate of Economic Hardship Review Criteria

1. That preservation of the building or site and/or the building's exterior architectural façade through preservation, reconstruction, rehabilitation or restoration, will not yield a reasonable return and, therefore, is not feasible.
2. If the preservation of the building or site is a hardship for the community that will have a negative impact on the general welfare of the City of Newark.
3. For demolition of an entire, or significant part, of an exterior historic architectural façade that is part of a reconstruction or addition to a building or site, the Planning

Commission and Council may consider, in addition to, or instead of, whether the preservation of the building in its present form for yields a reasonable return, if new construction is consistent and/or compatible with the historical architectural style of the building.

Departmental Comments

The City's Management, Planning and Operating departments have reviewed the University's request for a Certificate for Economic Hardship relative to the demolition of the Belmont Hall garage and have found have the engineer's report and associated supporting materials thorough and inclusive. No department objected to issuance of the Certificate of Economic Hardship.

Recommendation

Because the proposed demolition of the Belmont Hall garage will not have a significant negative impact on the City of Newark's historic building inventory, and because the request to demolish corresponds to the purpose and intent of Newark's Historic Preservation Ordinance, and because the proposed demolition will not have a negative impact on the community or adjoining properties, the Planning and Development Department suggests **that the Planning Commission recommend that Council approve the request for a Certificate of Economic Hardship in order to demolish the Belmont Hall garage as per the requirements of Chapter 7, Building, with no other conditions."**

Ms. Feeney Roser: Mr. Armitage is present and I will be happy to answer any questions.

Mr. Bowman: Are there any questions, initially, from the Commission?

Mr. Begleiter: Mr. Chairman, not a question, but for the record, I would like to note that there is an inherent conflict of interest between me and the applicant in this case because the applicant is my employer. If I recuse myself from this discussion and don't vote, we won't have a quorum to conduct the business at hand. I don't think there is any substantive conflict of interest, but I leave it to you or the Commission to decide.

Mr. Bowman: I don't believe there is either in this particular instance. I don't think you have anything personally to gain or lose so, I think we ought to proceed. If there are no further questions from the Commission, the applicant is here and we will here from him.

Mr. Rick Armitage: Representing the University of Delaware as the petitioner. My office is 126 Hullihen Hall on the University Campus. Thank you Maureen and Commissioners. I don't want to go through the whole thing that Maureen has just read to you. There is a fourteen page report that is before you.

There are just a couple of things that I want to highlight. The building doesn't serve a whole lot of purposes for the University any more. The Belmont House itself will remain and continue to be maintained by the University in its inventory of buildings. None of our neighbors have contacted me or any of the people in our facilities about the demolition of the building. You can see on the last page of the document that there is an aerial photograph attached of where the garage sits on the property and in relationship to our neighbors. I don't think any of the neighbors will notice or be upset that it is actually gone because it is starting to become an eyesore that you can see from the photographs leading up to that last aerial photograph. If you and the Council approve the demolition, Dr. Ames and his staff will document the building for the historic record before it is demolished. The last thing that I wanted to do was to thank you for so far making this really easy for us. We try to be a good steward of the buildings we have and this one really just isn't of any use any longer. I think to the long-term, the University Campus will start to move further east rather than west and for us to restore this and really use it, I don't think that will serve our purpose. What I really think the members of Council and the citizens of Newark will see is that the University will start to move more of its student population away from the Dickinson/Rodney dorms, and I think long-term those buildings will come down, and you will see renovations of the all the East Campus

dormitories in Harrington, Gilbert and Russell that they may also be torn down but be rebuilt in the similar style that you are seeing on the Laird Campus which is up near Clayton Hall near the new hotel. That fits into where we think we are going in the future for long-term building plans.

Mr. Bowman: Back to the members of the Commission. Any questions for Mr. Armitage?

Mr. Begleiter: Rick, your document refers to the building at issue here as the Belmont House garage. It says, "The building was acquired by the University in 1950 and formerly was home to President John A. Perkins from 1950 to 1961."

Mr. Armitage: Yes.

Mr. Begleiter: He never lived in the Belmont Hall garage, did he?

Mr. Armitage: No.

Mr. Begleiter: So, the home of the former University President is not at issue in this application. Is that correct? The garage is just the garage. It was never the home for the President?

Mr. Armitage: It was never the home, it was only the garage.

Mr. Begleiter: We are not taking away the former home of a UD President.

Mr. Armitage: No Sir.

Mr. Bowman: We will open the floor to any comments from the public.

Mrs. White: 103 Radcliffe Drive. This is another place that I am quite familiar with because now we live in Nottingham Green and a number of times a week I drive there by Dallam Road and look up the back at Belmont Hall and look at the back and the garage which is a distance away. I have a quick question for Rick Armitage. You can answer from there and I will repeat your answer. Was there once an apartment on the second floor of the garage to account for the outside stairwell.

Mr. Armitage: I am not aware that there was an apartment but it was probably a requirement of the Fire Code. The access to the second floor is that stairway.

Mrs. White: There had to be something that it was used for, if not an apartment, then maybe storage.

Mr. Armitage: For fire purposes I am sure that is why the stairs are there.

Mrs. White: The condition of the garage. This is a case of demolition by neglect. A particular phrase that is used by historic preservationists. In this case, demolition by neglect by the University of Delaware. For example, if you look at the MacIntosh engineering report on page 3 and they talk about the roof framing at the top. [Mrs. White read a portion of the engineer's report concerning the water damage of the building]. One of the best ways to get demolition by neglect is to not repair your roof and let it leak through. The other interesting thing is that this is a Certificate of Economic Hardship, and when you first look at this you think, Economic Hardship, we are talking about the University of Delaware, which is actually a very wealthy institution. Naturally, its wealth goes in different directions. So, I suppose that really one is judging the building on its own merit and not the wealth of the owner as a whole.

A question that I had for Maureen was, a comment was made by Mr. Armitage was that no neighbors contacted him against taking this down. But, I did want to ask, were the neighbors in the area given a notice just like they are for a rezoning, you have to notify everybody within whatever number of feet it is. Were they given a notice?

Ms. Feeney Roser: No they were not. I don't believe there is a requirement to do that.

Mrs. White: I actually think, although I can imagine that no one might object, this should be built into the Code so that this like rezonings and other cases as well that you have to notify the others, I know that people can look at the agenda of the Planning Commission and if they do that, they might react one way or the other or they might not, but just like the rezonings and a few other things as well, we actually notify people and we don't say they had to learn by looking at the agenda. That is just a comment.

The big reason to allow this demolition is that there does not appear to be a credible adaptive use to the garage structure. Even if the money were allotted to repair the building so the expense to repair or rehabilitate it is greatly out of proportion to any future use that could be put. For that, I do not oppose its demolition, but I do point out that it is a case of demolition by neglect for not keeping the roof, etc., secure.

Then I have another question for Mr. Armitage before I make my final comment. Does the University intend to build another structure where the garage is now or nearby? Do you know?

Mr. Armitage: I am unaware of any plans to build any new structures in that part of the City by the University.

Mrs. White: You did also make a comment that really wasn't connected to the garage per se about the University moving east, and Dickinson may be torn down or not used for dorms. That made me wonder if there might be plans in the future to sell Belmont Hall or to sell off the back lawn, which exists there, and sell it off for houses. You don't have to answer that because it is not relevant to the case. Since you made your comment, I will make this.

As a final thing I would like to say, since I do go by this everyday and I did look at it particularly today, the garage has electric by a line that runs from Dallam Road. The poles go down Dallam Road and the electric wires go down Dallam Road on that northern side of it. And running from that point all the way up to that garage, which is actually more toward Main Street than Dallam Road, is an electric line that has two different poles. One pole a little bit away from Dallam and then it hangs down and gets right beyond the garage more toward Main Street than on the back of the garage. There is the final pole and then the electric runs over to the garage. That is the only place that is serving all that electric line. I didn't see any lines that go to Belmont Hall itself or the neighboring English Language Institute Building, and I walked up to the street and I saw that there were conduits coming down from the poles, which made me think they were underground. So, I went to the Electric Department today and asked if, indeed, Belmont Hall was served itself by underground electric – not from the garage but – itself, and that is the case. At some point in the past, before 1995, before our current Electric Director was there the University put underground electric and then it branches to both the English Language Institute and Belmont Hall. But, the line that comes from Delaware Avenue to this garage is not part of that. So, I just wanted to ask - I presume this would happen – when the University demolished that garage that they remove at their own cost the two poles that exist – one by the garage and one midway and the electric line and that should make some people happy, and perhaps, Dr. Begleiter. So, I put that request to you, Rick Armitage, to carry back, and I would hope that the Commission would put something about the requirement to do that.

Mr. Armitage: May I two comments? The first would be about the electric line. I hesitate to make that commitment on behalf of the University without really evaluating whether or not that would hurt or, in some ways, if we have to put security lighting there. I can't remember what the lighting looks like around Belmont Hall right now and how the parking actually fits with the garage in front of that. I would be concerned that we would take the electric out that would be supporting security lighting that may remain when we tear the garage down. We may put a light on the pole that is there. I just don't know that, so I hesitate to say that that makes perfect sense until we really have a chance to evaluate that. The other thing, if the Commission thinks is necessary, and I am not sure how you make notification to neighbors about demolition. Demolition probably

doesn't happen that frequently, but I would be happy to write to neighbors. Some of the houses directly adjacent to this are really owned by the University or rented by University faculty or staff. If you feel that that is important to do, I would be happy to make a commitment to notify neighbors in some reasonable distance around there so they are aware of what we are considering doing.

Ms. Feeney Roser: The notification is not a requirement of the Code. Certainly I would think that if you were willing to notify neighbors, it would be a good thing to do.

Mr. Armitage: The last thing we would want to do is surprise someone who may be truly in love with this building.

Mr. Bowman: That is certainly your call, but I don't think we have to tie up with the recommendation.

Mr. Armitage: I will try to figure out and work with Maureen to figure out some neighbors at least within sight lines would see this and will notify them of our intension.

Mr. Bowman: Very well. If there is no one else to wish to address this subject from the public, I will bring it back to the table for a motion.

Ms. Dressel. I do have a question, and it was one that was bothering me, and Mrs. White brought it up again. Because I was not familiar with this location, I guess I am a little concerned about why it fell into such disrepair knowing that it was owned by the University. Can you give us a little bit of background about this?

Mr. Armitage: I would be speculating if I told you why it fell into disrepair. I know it was used as a storage facility. From the descriptions you had in the booklet, it was the carpentry shop at one point in time. I have worked at the University since 1972. As I remember, the carpenter shop has really been in the maintenance center which is off of Academy Street. Some period between the time it was the President's home and the associated garage and 1972 when the carpenter shop moved there. Right now the plumbing shop uses it for storage. I think in one of the photographs you can see some sort of a carrier that they have all this hose wrapped around. It is not that convenient to the campus anymore. At one time Belmont Hall was a residence hall. And then it is really being used as office space now. I can't really explain why people stopped maintaining that part of it except maybe the incredible cost associated with maintaining all the buildings that the University owns. We spend about \$30 million a year maintaining buildings.

MOTION BY McDOWELL, SECONDED BY DRESSEL, THAT THE PLANNING COMMISSION RECOMMEND THAT COUNCIL APPROVE THE REQUEST FOR A CERTIFICATE OF ECONOMIC HARDSHIP IN ORDER TO DEMOLISH THE BELMONT HALL GARAGE AS PER THE REQUIREMENTS OF CHAPTER 7, BUILDING, SECTION 15, HISTORIC BUILDINGS OF THE MUNICIPAL CODE.

VOTE: 4-0

AYE: BEGLEITER, BOWMAN, DRESSEL, McDOWELL

NAY: NONE

ABSENT: BROWN, OSBORNE, SHEEDY

MOTION PASSED UNANIMOUSLY

Meeting adjourned at 9:40 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission